

### REMARKS

By the present amendment, Applicant has canceled Claims 1-10 and added Claims 11-13. Claims 11-13 remain pending in the present application. Claim 11 is the only independent claim.

In the recent Office Action the Examiner rejected Claims 1 and 3-4 under 35 U.S.C. § 102(b) as being anticipated by Mills et al. (US 4,676,914). Claims 2 and 5-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mills et al. in view of Nogaki et al. (US 4,310,144). Claim 4 was objected to because of an informality.

Applicant has canceled original Claims 1-10 and introduced Claims 11-13 by the present amendment, which should serve to obviate the prior art grounds of rejection of record. Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Applicant's invention is drawn to an inexpensive, easy-to-install system for preventing a fluid reservoir (such as a swimming pool) from accidentally emptying when the backwash valve is set in the backwash position. As set out in new independent Claim 11 the invention includes, in part, a fluid reservoir having a recirculation conduit connected thereto. A pump is disposed in the conduit and a filter is recited as positioned downstream of the pump. A drain conduit is positioned adjacent the filter. A valve is disposed in the conduit. The valve is described as having a body portion and a handle for manually moving

the valve from a position where fluid is re-circulated to a position wherein fluid is diverted to the conduit. The claim further calls for an electric timer for controlling operation of the pump. A pair of electrical contacts is claimed for actuating the electrical timer. One of the contacts is attached to the handle and the other contact is attached to the valve body. This arrangement allows actuation of the pump when the valve is moved to the backwash flow position. New dependent Claim 12 positions the drain conduit relative to the filter. New dependent Claim 13 specifies that the reservoir is a swimming pool.

In contrast, the primary reference to Mills et al. is drawn to an integrated, automated system that is relatively complicated and expensive. An object of Applicant's invention is to replace this type of system. The patentees' system relies on a microprocessor and pressure sensors to activate the pump, whereas Applicant's system is a simple add-on that is manually operated. There is no handle disclosed or suggested in the primary reference for achieving manual operation as set forth by the present claims. Nor is there any suggestion or teaching of a first electrical contact positioned on a valve handle and a second electrical contact positioned on the valve body as called for by Applicant's claims.

The above noted deficiencies of the primary reference are not cured by the realistic teachings of the secondary reference to Nogaki et al. While this secondary reference discloses a handle for operating a valve, there appears no motivation or guidance in the prior art for providing such a handle in the Mills et al. system. In fact, providing the Mills et al. system with a handle for manual operation would negate the intended operation of the reference system. Furthermore, even if the references were properly combined, one skilled in the art would not be able to arrive at Applicant's presently claimed invention since the

combined teachings afforded by the references fail to disclose or suggest the electrical contacts arranged in the manner as recited in the present claims. Such an arrangement could only be accomplished in light of Applicant's own disclosure.

To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. (*Emphasis added*). *In re Rouffet*, 47 USPQ2d 1453 (Fed. Cir. 1998) at 1457-58

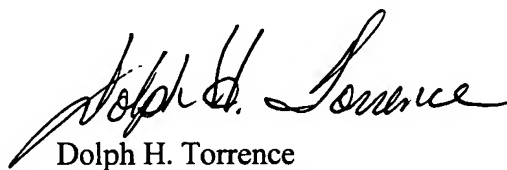
Applicant contends that the specific combination and arrangement of structural and functional features as elements as recited in independent claim 11 and dependent claims 12-13 is not disclosed or fairly suggested in the applied and cited references and that Claims 11-13 are therefore allowable over the prior art applied of record.

Application No. : 10/645,701  
Art Unit : 3753

Attorney Docket No. 21150.00

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Dolph H. Torrence".

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DHT:egf  
Attachments : Petition for Extension of Time  
Check for \$60.00